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SUPREME COURT, U.S.

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78-6232

IN THE UNITED STATES SUPREME COURT

OCTOBER TERM 1978

NO. _____

RAY L. WHITE,

Petitioner;

aginst,

STATE OF ARIZONA,

Respondent.

IN PROPRIA PERSONA

PETITION FOR WRIT OF CERTIORARI TO THE

ARIZONA SUPREME COURT

Prepaired by;

Richard R. Sauter, Esq.
Jailhouse Lawyer
Arizona State Prison
P.O. Box B 32610
Florence, Arizona 85232

Petitioner;

Ray L. White
P.O. Box B 37590
Florence, Arizona 85232

In Propria Persona

I

JURISDICTION

This courts jurisdiction is invoked pursuant to 28 U.S.C. 1257.

II

OPINION BELOW

Petitioners application for Special Action was denied on the 30th day of January,1979 (without an evidentuary hearing). The order denying said application is attached hereto as Appendix A.

III

QUESTION PRESENTED

WHETHER THE DUE PROCESS CLAUSE OF THE 14th AMENDMENT TO THE U.S. CONSTITUTION EXTENDS TO PAROLE RELEASE DETERMINATIONS AND,IF SO, WHETHER THE SAFEGUARDS CURRENTLY AVAILABLE UNDER APPLICABLE ARIZONA LAW ARE CONSTITUTIONALLY ADEQUATE?

IV

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. CONSTITUTION:

14th AMENDMENT.

ARIZONA CONSTITUTION:

Article 2, Section 4.

V

REASON WRIT SHOULD BE GRANTED

THE DUE PROCESS CLAUSE OF THE 14th AMENDMENT EXTENDS TO PAROLE DETERMINATIONS BE WHAT THE SAFEGUARDS CURRENTLY AVAILABLE UNDER APPLICABLE ARIZONA LAW ARE CONSTITUTIONALLY INADEQUATE.

At the outset it should be noted that the U.S. Court of Appeals for the Ninth Circuit,has succinctly stated,many years ago,that determinations by a parole board cannot be arbitrary, basically unfair, or invidously discriminatory.

The court also made it clear that the time an inmate must serve in prison must be determined in a manner consistant with the federal constitution.

[illegible]HURM v. CALIFORNIA ADULT AUTHORITY,(9th Cir. 1968) U.S. 446,449,450.

Other courts holding that due process applies to parole determination hearings are;

.....

1. HILL v. ATTORNEY GENERAL OF THE U.S.,(3rd Cir. 1977) 550 F.2d 901.

2. FRONCZAK v. WARDEN,EL RENO REFORMATORY,(10th Cir. 1977) 553 F.2d 1219.

In the present case petitioner appeared before the parole board on the 13th dat of December,1978,at which time his application for parole was denied.

In denying parole the parole board failed to:

(a) give petitioner advance written notice of the factors/criteria that the board would consider at the hearing.

(b) keep a record of the hearing that could be reduced to written form in order for petitioner to have proper judicial review.

(c) furnish petitioner with a full and fair explination of it's reason(s) for denying petitioner parole.

(d) publish and distribute to petitioner it's guidelines (factor/criteria) relied on in parole determination hearing or mandated by the Administrative Procedure Act.

(e) afford petitioner an opportunity to inspect his prison file which they utilized in determining whether parole will be granted, and failed to advise him of all adverse information upon which they relied on in the determination,in lieu of allowing him to inspect his file.

(f) advise petitioner reason(s) for denial so that he could appropriately adjust his future conduct, to enable him to be granted parole at his next hearing.

(g) reasons for denial of parole herein do not substantially relate to the board guidelines,(factor/criteria) if any,they relied on in determining petitioners application for parole.

Petitioner submits that the above sited failure by the Arizona Parole Board falls within the orbit of; INMATES OF NEBRASKA PENAL AND CORRECTIONAL COMPLEX v. GREENHOLTZ, 23 CRL 2265, 576 F. 2d 1274.

VI

CONCLUSION

Because of the foregoing reasons,the Writ of Certiorari should be granted.

Copy of the foregoing Pet. for Writ of Cert. mailed this 14th day of February ,1979 to;

Respectfully submitted

Ray L. White

Office of the Attorney General
200 State Capitol Building
Phoenix,Arizona 85007

I,Ray L. White,declair under penalty of perjury that the foregoing is true and correct to the bast of my knowledge and belief.

Ray L. White

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 14 DAY OF February ,1979

Robert J. Stout
NOTARY PUBLIC

My Commission Expires June 19, 1979

CLIFFORD H. WARD
CLERK

Supreme Court
STATE OF ARIZONA
Phoenix
85007

MARY ANN HOPKINS
CHIEF DEPUTY CLERK

January 31, 1979

RAY L. WHITE,

Petitioner,

vs.

STATE OF ARIZONA,

Respondent.

Supreme Court
No. M-245

The following action was taken by the Supreme Court of the State of Arizona on January 30, 1979 in regard to the above-entitled cause:

"ORDERED: The Court declines to accept jurisdiction of the Petition for Special Action."

CLIFFORD H. WARD, Clerk
By Anna L. Cates
Deputy Clerk

TO: Ray L. White, Arizona State Prison, Box B-37590, Florence, Arizona 85007
Hon. Robert K. Corbin, Attorney General, 200 State Capitol Building, Phoenix, Arizona 85007 Attn: Robert F. Ellig, Assistant Attorney General

APPENDIX A.